Filed 12/8/03 In re Michelle W. CA2/5

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re MICHELLE W. et al., Persons Coming Under the Juvenile Court Law.	B167642 (Los Angeles County Super. Ct. No. CK51555)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Petitioner and Respondent, v. JENNIFER D., Objector and Appellant.	

APPEAL from a judgment of the Superior Court of Los Angeles County. Thomas Grodin, Judge. Affirmed.

Karen B. Stalter, under appointment by the Court of Appeal, for Objector and Appellant.

Lloyd W. Pellman, County Counsel, and Arezoo Pichvai, Deputy County Counsel, for Respondent.

Jennifer D. appeals from disposition orders in the dependency case concerning her daughters, Michelle and Daryn W. She contends that the visits component of her reunification plan was inadequate. The standard of review is abuse of discretion. (*In re Robert L.* (1993) 21 Cal.App.4th 1057, 1067.) We affirm.

This family came to the attention of the Department of Children and Family Services on February 26, 2003, when appellant told Burbank police that Michelle, who was sixteen years old, and Daryn, who was fourteen, were runaways. The police made inquiries and soon made contact with the girls, who said that they were not runaways. Instead, as their mother knew, Michelle lived in the Simi Valley with an unrelated caretaker, Nancy M., and Daryn lived in Burbank with her maternal aunt, Debra D. They lived in those homes because their parents abused drugs and alcohol.

Appellant had recently married and moved to Oregon and wanted her daughters to live with her. Michelle and Daryn told police and DCFS that they did not want to live with their mother or move to Oregon.

DCFS placed both girls with a paternal aunt and filed a Welfare and Institutions Code section 300 petition. At the detention hearing on March 4, Michelle and Daryn asked that they be detained from their parents and returned to the homes they had been living in. They also asked that visits with appellant be monitored and that their own desires be taken into consideration regarding visits. The court ordered monitored visits and ordered DCFS to investigate the homes of Nancy M. and Debra D.
The results of that investigation were presented to the court on March 20. DCFS recommended that Michelle and Daryn be placed with Nancy M. and Debra D., and the court made the order.

DCFS's April 8 report included Michelle's statement that she did not want to live with her mother, but was willing to visit as long as the visit was not in Oregon, Daryn's statement that she did not want to visit appellant "any time soon," and appellant's statement that she was enrolled in counseling and that she had not used drugs since 1998. The report also included Michelle's and Daryn's accounts of their mother's drug use and

of their own history, which involved substantial periods in which they lived with grandparents or an aunt, and appellant's version of the same events.

At an April 9 hearing, appellant asked that her daughters be transported to Oregon for monitored visits, at her expense. The court denied the request for the time being, but continued the order for monitored visits. An adjudication date was set. For the adjudication hearing, appellant submitted declarations from friends and letters from teachers and from her husband to the effect that she had been involved in her children's lives: she had met with teachers in 1999 and 2001 and coached sports teams in 2001 and 2002. She lived with them for a time, and when she did not, the children always knew where she was and how to reach her. Appellant also submitted a letter from her drug counselor, who reported that appellant was in drug treatment and had tested clean on several occasions, and who also noted that appellant was concerned that the children were not safe with her sister; and a letter from her mental health counselor. He reported that appellant had been in therapy since March 31, that appellant said that her DCFS social worker had disparaged Mormons in front of one of the children (appellant's husband was Mormon), and that, based on what appellant reported,[1] the DCFS social worker was adversarial to appellant. Further, DCFS should not have placed the children with appellant's sister, but should have known that the placement would cause appellant and her sister to act out sibling rivalry.

When the case was called on May 30, the parties submitted on the documents and the court found that Michelle and Daryn were persons described in Welfare and Institutions Code section 300, subdivision (b)(1) and (2).

The court then turned to the disposition. Appellant's counsel informed the court that a few weeks earlier appellant had come to California for a visit, but "nobody seem[ed] to know about it." Appellant was angry and disappointed and believed that nobody wanted to allow her to have her visits and that she "continually [got] the run-

[1] The letter refers to emails from the social worker, but it is not clear that the therapist saw those emails.

around." She asked that DCFS facilitate visits when she was able to be in California, and asked for help with telephone contact.

Michelle and Daryn asked to be heard personally on the subject. Daryn told the court that "I don't think I'm quite ready to visit my mother yet. I think it's a little too emotionally hard for me." Michelle said "I don't mind visiting with her for an hour, no more, because we can't get along. But this weekend I have a lot going on because I have finals coming up. . . . So this weekend isn't good."

Michelle and Daryn's lawyer told the court that her clients had suggested Sunday night for telephone contact, saying "they were usually home that night. Other than that, they were involved in a lot of activities."

Noting that Daryn had just started therapy, appellant asked that visits with her "commence through therapeutic contact." As to the telephone calls, appellant asked "Can we establish a good time for Sundays, or is it just . . . ?" The court told appellant to work out specifics with Michelle and Daryn's lawyer, before leaving the courtroom.

The court made the standard dispositional findings, kept Michelle and Daryn in their placements, and ordered drug rehabilitation, parenting classes, and individual counseling for appellant. The court also ordered monitored visits and telephone contact on Sunday nights.

Appellant now contends that the court violated its statutory duty when it refused to tailor a specific visitation plan, given the difficulties she was having in obtaining her court ordered visits. She argues that a more specific plan was necessary because the social worker was biased against her and because her children were placed with caretakers with whom she did not get along. She cites cases which discuss the importance of visits in a reunification plan (*In re Julie M.* (1999) 69 Cal.App.4th 41, 48) or the need for a reunification plan tailored to the family. (*In re Riva M.* (1991) 235 Cal.App.3d 403.) She also cites *In re Jennifer G.* (1990) 221 Cal.App.3d 752, which held that the power to regulate visits in dependency cases rests with the judiciary, and may not be delegated.

We have no quarrel with those cases or principles, but nonetheless cannot see that the trial court abused its discretion in any way. First, we see no violation of the rule enunciated in *Jennifer G.* The court did not improperly delegate the question of visits to DCFS, but made a visits order. Since the visits were monitored, DCFS was to have a role, but it is settled that such ministerial tasks may be delegated. (*In re Jennifer G.*, *supra*, 221 Cal.App.3d at p. 757; *In re Randalynne G.* (2002) 97 Cal.App.4th 1156.)

As to telephone contact, appellant had a specific order, Sunday nights. We see nothing irrational, and no improper delegation, in the fact that the hour should be decided by appellant and Michelle and Daryn's lawyer.

As to visits, we cannot see that appellant requested a more specific plan. Instead, she asked that DCFS facilitate visits when she was able to be in California, and said that she would notify everyone when she was going to be in California. In response, the court ordered monitored visits, in California, an order which was not only fair and rational, but which was responsive to appellant's request.

The most salient facts about this case are that appellant had moved to Oregon, creating obvious difficulties with visits, and that the court had before it evidence that appellant had not lived with her children for substantial portions of their childhoods, and that they had made other arrangements for themselves, did not wish to live with her, and wished to limit visits. We surely cannot fault the trial judge for exercising its discretion in a manner that paid heed to Michelle's and Daryn's wishes for their lives.

Nor do we see evidence that DCFS failed to facilitate visits or was creating problems with appellant's reunification plan. The evidence of bias was, charitably, skimpy. Appellant did make representations about a single missed visit, but did not present evidence that the problems were caused by DCFS.

Disposition

The judgment is affirmed.

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ARMSTRONG, J.

We concur:

GRIGNON, Acting P.J.

MOSK, J.